IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 12TH APRIL 2007 / 22ND CHAITHRA 1929

R.P.No. 341 of 2007

AGAINST THE ORDER IN I.A.NO.138/2007 IN RCR.21/2005
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REVIEW PETITIONER/PETITOINER/2ND RESPONDENT:

ELDHOSE C. THOMAS, AGED 38,
S/O. THKOMAS, CHITTAYAM MALIL, KOTHAMANGALAM,
NOW RESIDING AT DOOR NO.142/1514,
MARKET ROAD NORTH END, KOCHI - 18.

BY ADV. SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM

RESPONDENT/RESPONDENT/PETITIONER:

M.S. PUSHPAKUMAR, AGED 72,
W/O. LATE ADVOCATE VASUDEVAN,
PUSHPA VIHAR,
KAKKANAD, KOCHI - 30.

BY ADV. SRI.P.N.RAMAKRISHNAN NAIR

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 12/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

R.P. No.341 of 2007 IN R.C.R.No.21 of 2005

Dated this the 12th day of April, 2007

Order

Koshy, J.

This is a review petition filed to review the order passed in I.A.No.138 of 2007 in R.C.R.No.21 of 2005.

2. Landlord filed R.C.R. from an order dismissing an application under section 12 of the Rent Control Act. This court fixed the arrears payable and directed the petitioner to pay off the arrears in four monthly instalments commencing from 15.9.2006. It was also directed that current months' payments should also be paid along with the instalments. Operative portion of the R.C.R. reads as follows:

> "In the result, we allow both these Rent Control Revisions and order that in the event of the respondents/tenants making payment of admitted arrears of rent in four equal monthly instalments, at the rate of Rs.26,533/-, beginning with 15th September, 2006, all admitted arrears of rent shall stand discharged by 31.12.2006 and that

> R.C.P.No.16/03 shall stand restored to file. Thereupon, the Rent Control Court shall proceed to determine the petition on merits. In case of default in payment of any one of the instalments, the tenants shall forfeit the privilege of making payment of admitted rents in arrears in instalments and the order of eviction passed under section 12 (3) of the Act by the Rent Control Court on 9.10.2003 shall stand restored, in reversal of the common judgment of the appellate authority in R.C.A. Nos. 155/03 and 187/03 and thereupon, the respondents/tenants shall be liable to be evicted forthwith. The due date for payment of the instalments shall be the 15th of every calendar month, beginning with 15.9.2006. The parties shall appear before the Rent Control Court on 15.9.2006."

First instalment was paid on 15.9.2006 itself. Thereafter, next payment of other three instalments was not made. The entire arrears were paid before 31.12.2006 as directed. Since the entire arrears were paid before 31.12.2006 as allowed originally, there is no question of extending further time. Petitioner has complied with the directions and he cannot be evicted under section 12 of the Act and no review petition is necessary.

The review petition is disposed of with the above directions. However, with regard to the enhancement of rent, we make it clear that we have only disposed of the application under section 12 (3) and other contentions in the R.C.P. has to be decided by the court below separately.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

R.P. No.341/2007 IN
R.C.R.NO.21/2005

ORDER

Dated:12th April, 2007